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DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

The Surgeon General of the
Public Health Service
Washington DC 20201

STATEMENT OF

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCOMMITTEE ON TRANSPORTATION, AND HAZARDOUS SUBSTANCE

COMMITTEE ON ENERGY AND COMMERCE

U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 1989

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear at today's hearing to discuss issues related to tobacco use. The views presented in this testimony are my own and do not represent those of the Administration. I will focus my remarks on two topics which this Subcommittee has considered in current legislative proposals and in previous hearings: tobacco advertising and children's access to tobacco products.

Tobacco Advertising

The bill that you have introduced, Mr. Chairman, H.R. 1250, would eliminate all image-based tobacco advertising (allowing

only so-called "tombstone advertising"). On several occasions during my tenure as Surgeon General, I endorsed proposals that would ban all tobacco advertising and promotion. I certainly support your proposal to restrict tobacco advertising as a reasonable compromise, although I would continue to endorse a total advertising ban as a long-term goal.

It is a curious public policy that we, as a society, allow the most important preventable cause of death to be one of the most heavily advertised consumer products. I know that First Amendment concerns have been expressed about tobacco advertising restrictions. Opponents of these restrictions argue

that if a product is legal to sell, it should be legal to advertise. That argument, expressed in a different way, says that if Congress wants to ban the advertising of a product, it first has to ban the sale of that product.

I don't believe our Founding Fathers would have endorsed such a narrow and inflexible range of options for Congress to consider. An advertising ban seems to me to be a reasonable middle ground between the status quo and a total prohibition of tobacco use, which no one seriously proposes.

While I am not a legal scholar, I understand that Congress has

the clear authority to prohibit deceptive advertising. In my opinion, much of today's advertising for tobacco products is deceptive. Many ads portray smoking as a safe, if not healthful, activity, and no ads disclose many of the serious and extensive health effects of smoking, such as stroke and nicotine addiction.

One of the more outrageous cigarette ads has used, for at least a decade, the slogan "Alive with Pleasure." This is clearly a message designed to undermine the Surgeon General's warning. If you consider smokers who suffer from lung cancer, emphysema, or stroke caused by smoking, truth in advertising

would demand use of the slogan, "Dying in Agony" instead of "Alive with Pleasure."

Two examples of ads which I find highly objectionable are the Kool ads that clearly target young people, and the recent Camel ad that suggests violence against women (see attached ads). It is interesting that Philip Morris associates Virginia Slims with women's liberation ("You've Come a Long Way, Baby"), whereas R.J. Reynolds, in the Camel ad, treats women as if it were still the Age of Dinosaurs.

I also object to the promotional placement of cigarettes in movies, to which, Mr. Chairman, you have appropriately drawn attention. As you have pointed out, cigarette promotions placed in movies such as Superman II expose large numbers of children and adolescents to these messages. When these movies are shown on television, the ban on broadcast cigarette advertising is circumvented.

At this point, Mr. Chairman, I would like to comment on the misleading statements made by the advertising industry on this issue to this Subcommittee and elsewhere concerning the 1989 Surgeon General's report, Reducing the Health Consequences of

Smoking: 25 Years of Progress. Repeatedly, advertising industry trade associations and publications have taken quotes from the report grossly out of context. Mr. Chairman, I would like to give you three examples and then set the record straight.

In a written statement to the Subcommittee for its July 25, 1989 hearing, the president of the Point-of-Purchase Advertising Institute (POPAI) argued against tobacco advertising restrictions by quoting from the report:

"In the Surgeon General's 1989 Report, it states that 'THE MOST DIRECT APPROACH TO ASSESSING THE RELATIONSHIP BETWEEN ADVERTISING AND CIGARETTE CONSUMPTION HAS BEEN TO ASK CHILDREN OR ADULTS ABOUT FACTORS THAT INFLUENCED THEM TO SMOKE. THESE STUDIES TYPICALLY FIND THAT ADVERTISING IS RANKED QUITE LOW ON THE LIST OF RELEVANT FACTORS.'" (capitalization added by POPAI)

The witness conveniently omitted the next three sentences, which are as follows:

"Marketing experts have questioned the validity of this approach because conscious response to advertising is deemed to be a poor index of actual response (Bergler 1981; Chapman 1986). As such, studies with a similar method and opposite findings also offer little insight into the actual effects of advertising. An example is a study by Fisher and Magnus (1981), which found that most children believe that cigarette ads encourage children to smoke."

Also in written testimony submitted to the Subcommittee for the July hearing, the American Advertising Federation stated:

"Even the Surgeon General's 1989 report, 'Reducing the Health Consequences of Smoking' admits, 'There is no scientifically rigorous study available to the public that provides a definitive answer to the basic question of whether advertising and promotion increase the level of tobacco consumption.'"

Similarly, an article in Advertising Age (January 16, 1989) quoted the report as follows:

"'The extent of influence of advertising and promotion on the level of consumption is unknown and possibly unknowable,' the report said."

The entire excerpt, including these statements taken out of context, is as follows (omitted portions underlined):

> "There is no scientifically rigorous study available to the public that provides a definitive answer to the basic question of whether advertising and promotion increase the level of tobacco consumption. Given the complexity of the issue, none is likely to be forthcoming in the foreseeable future. The most comprehensive review of both the direct and indirect mechanisms [whereby advertising may affect consumption] concluded that the collective empirical, experiential, and logical evidence makes it more likely than

not that advertising and promotional activities do stimulate cigarette consumption. However, that analysis also concluded that the extent of influence of advertising and promotion on the level of consumption is unknown and possibly unknowable (Warner 1986b)."

The major point being made in this paragraph of the report is that a perfectly designed study to prove that cigarette advertising increases cigarette consumption will probably never be performed because of the complexity of this issue. I must emphasize that absolute scientific proof is rarely available when studying human behavior. Humans do not behave like the laws

of physics. In medicine and in public health, we rarely await, and we would be foolish to await, definitive proof before taking appropriate action.

In the 1850s, John Snow ended an epidemic of cholera in London by removing the handle of the Broad Street pump, 30 years before the bacterium that causes cholera was first identified. Fortunately, there was no Cholera Institute that lobbied against removal of the pump handle until it could be proved that the water from that pump was causing cholera.

In my opinion, the burden of proof should be on the tobacco and advertising industries to show that advertising does not increase cigarette consumption. In the absence of such evidence, advertising should not be allowed. This shifting of the burden of proof would represent prudent public health policy for a product that kills 390,000 Americans each year, when used exactly as intended.

Children's Access to Tobacco Products

Let me now turn to the topic of children's access to tobacco products. In May 1988, I released the Surgeon General's

report, The Health Consequences of Smoking: Nicotine Addiction. In the preface to that report, I raised a number of important policy questions concerning the sale and distribution of tobacco products:

> "We as citizens, in concert with our elected officials, civic leaders, and public health officers, should establish appropriate public policies for how tobacco products are sold and distributed in our society. With the evidence that tobacco is addicting, is it appropriate for tobacco products to be sold through vending machines, which are easily accessible to children? Is it appropriate for free samples

of tobacco products to be sent through the mail or distributed on public property, where verification of age is difficult if not impossible? Should the sale of tobacco be treated less seriously than the sale of alcoholic beverages, for which a specific license is required (and revoked for repeated sales to minors)?"

My answer to each of these three questions is "no." There is no logical reason why we should have a double standard for controlling the sale of tobacco and alcohol, the two major legal addicting drugs used in our society. Would we tolerate the sale of alcoholic beverages though vending machines? Would we

allow free samples of alcoholic beverages to be sent through the mail or passed out on public property? Of course not. Why, then, should we be so permissive with the sale of tobacco, when 43 States have laws that prohibit the sale of tobacco to minors?

The issue of whether it is appropriate to sell tobacco products through vending machines is important for two reasons. First, vending machines are a powerful symbol that we don't take seriously the problem of cigarette sales to minors. Second, they allow children to have easy access to cigarettes. At the Subcommittee's July 1989 hearing, a representative of the

National Automatic Merchandising Association (NAMA) testified that "About 8 out of 10 cigarette vending machines are located where teenagers are not allowed or rarely frequent." Even if true -- and I'm not convinced it is -- it's a poor argument against banning vending machine sales of cigarettes. Even 20 percent of the 374,000 vending machines in the United States (NAMA estimate) represents a huge number of sites (75,000) from which teenagers can readily obtain cigarettes ... illegally. I agree with past statements by the Department of Health and Human Services that controlling the sale of tobacco to minors is a potentially effective strategy to prevent the initiation of tobacco use among young people. It is

disappointing that States have made so little effort to enforce existing laws banning the sale of tobacco to minors. As long as States take no action to enforce these laws, I support Federal efforts to prevent the sale of tobacco to minors.

Mr. Chairman, I would be happy to answer any questions that you or other members of the Subcommittee might have.